

## Message Text

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PAGE 01 STATE 065578

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ORIGIN L-03

INFO OCT-01 EUR-25 ISO-00 PM-07 DODE-00 H-03 CIAE-00

INR-10 NSAE-00 RSC-01 SAJ-01 /051 R

DRAFTED BY DOD/GC:JAMES J. ALLEN:EDK

APPROVED BY L:L/PM:JAMES H. MICHEL

EUR/IB - MR. MCCOWN

PM/ISO - HGHAGERTY

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R 021436Z APR 74

FM SECSTATE WASHDC

TO AMEMBASSY MADRID

INFO JUSMAG MAAG

16 AF TORREJON AB SPAIN

CINCUSAFE

CINCUSNAVEUR

USCINCEUR

COMNAVACTS NAVSTA ROTA LAW CENTER

C O N F I D E N T I A L STATE 065578

E.O. 11652:GDS 1980

TAGS: MILI, SP

SUBJ: OFFICIAL DUTY IN HOME TO WORK CASES

REFS: (A) MADRID 7486

(B) STATE 231716 (NOV. 26, 1973)

1. FOR REASONS CONTAINED REF B, WE CANNOT CONCUR YOUR PREFERENCE FOR WAIVER OF PRIMARY RIGHT TO EXERCISE JURISDICTION. HOWEVER, IN VIEW OF EMBASSY JUDGMENT THAT GOS POSITION ON "SERIOUS" CASES IS UNALTERABLE, EMBASSY AUTHORIZED ENTER INTO INFORMAL ARRANGEMENT WITH GOS UNDER WHICH US HENCEFORTH WOULD NOT ISSUE DUTY CERTIFICATE IN CASES INVOLVING TRAVEL TO AND FROM WORK IN POV, WITH UNDERSTANDING THAT GOS WILL WAIVE JURISDICTION EXCEPT IN SUCH CASES WHICH ALSO INVOLVE DEATH OF SPANISH NATIONAL. PREFERRED FORUM FOR INFORMAL AGREEMENT, TO  
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PAGE 02 STATE 065578

BE CONSUMMATED BY ORAL EXCHANGE, WOULD BE JOINT COMMITTEE.

2- IF ABOVE ARRANGEMENT ACCEPTABLE TO GOS, FREE CASE MAY BE RESOLVED BY AD HOC US WITHDRAWAL OF DUTY CERTIFICATE PRIOR TO IMPLEMENTATION OF NEW AGREEMENT.

3. IN DISCUSSING HANDLING OF THESE CASES WITH SPANISH AUTHORITIES, EMBASSY SHOULD AVOID ANY INFERENCE THAT USG WILL WAIVE ITS PRIMARY RIGHT TO EXERCISE JURISDICTION OR OTHERWISE ACQUIESCE IN EXERCISE OF JURISDICTION BY SPAIN IN ALL OFFICIAL DUTY CASES WHICH GOS MAY REGARD AS "SERIOUS" BECAUSE OF DEATH OF SPANISH NATIONAL OR SOME OTHER FACTOR. OUR WILLINGNESS TO ACCEDE TO SPANISH DESIRE TO EXERCISE JURISDICTION IN HOME-TO-WORK CASES INVOLVING DEATH OF SPANISH NATIONAL IS BASED ON OUR DECISION NOT TO TREAT SUCH CASES AS OFFICIAL DUTY, AND DOES NOT CONSTITUTE A PRECEDENT FOR OTHER "SERIOUS" CASES WHERE OFFICIAL DUTY CLEARLY INVOLVED (E.G., SENTRY SHOOTING CASE OR TRAFFIC DEATH INVOLVING DULY DISPATCHED GOVERNMENT VEHICLE). RUSH

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## Message Attributes

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**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
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**Concepts:** MILITARY PERSONNEL, LAW, PROVINCIAL COURTS  
**Control Number:** n/a  
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**Disposition Authority:** GolinoFR  
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**Disposition Date:** 28 MAY 2004  
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**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** OFFICIAL DUTY IN HOME TO WORK CASES  
**TAGS:** MILI, SP  
**To:** MADRID  
**Type:** TE  
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